

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSEPH ANTHONY CASTRO,

Plaintiff,

v.

PATRICK COVELLO, et al.,

Defendants.

No. 2:24-cv-0928 CKD P

ORDER

Plaintiff is a state prisoner proceeding pro se and seeking relief pursuant to 42 U.S.C. § 1983. On April 5, 2024, the court screened plaintiff's complaint as the court is required to do under 28 U.S.C. § 1915A(a). Plaintiff's complaint was dismissed with leave to amend. Plaintiff has now filed an amended complaint.

The court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The court must dismiss a complaint or portion thereof if the prisoner has raised claims that are legally "frivolous or malicious," that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1),(2).

Plaintiff complains about instances in which his mail was opened outside of his presence by prison officials. According to plaintiff the mail was sent by a governmental agency and concerned plaintiff's children. However, plaintiff fails to point to anything suggesting this

1 amounts to a denial of a federal right. While plaintiff generally has a right to not have mail from
2 an attorney representing him to be opened outside of his presence, Hayes v. Idaho Correctional
3 Center, 849 F.3d 1204, 1210 (9th Cir.2017), there is no such right simply because the mail
4 received was from the government. See id. at 1211 (mail from courts as opposed to mail from a
5 prisoner's attorney can be opened outside of the prisoner's presence).

6 For these reasons, plaintiff's amended complaint must be dismissed. The court will grant
7 plaintiff one more opportunity to state a claim arising under federal law. Plaintiff is reminded
8 that the court cannot refer to a prior pleading in order to make plaintiff's second amended
9 complaint complete. Local Rule 220 requires that an amended complaint be complete in itself
10 without reference to any prior pleading.

11 In accordance with the above, IT IS HEREBY ORDERED that:

12 1. Plaintiff's amended complaint is dismissed.

13 2. Plaintiff is granted thirty days from the date of service of this order to file a second
14 amended complaint that complies with the requirements of the Civil Rights Act, the Federal Rules
15 of Civil Procedure, and the Local Rules of Practice. The second amended complaint must bear
16 the docket number assigned this case and must be labeled "Second Amended Complaint." Failure
17 to file a second amended complaint in accordance with this order will result in a recommendation
18 that this action be dismissed.

19 Dated: September 27, 2024



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE